

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

ANKUR P. TRIVEDI,)	
)	
Plaintiff,)	
)	CIVIL ACTION FILE NO.:
vs.)	
)	
LIBERTY MUTUAL HOLDING)	
COMPANY, INC. d/b/a LIBERTY)	
MUTUAL INSURANCE COMPANY)	
and/or LIBERTY MUTUAL GROUP)	

**DEFENDANT LIBERTY MUTUAL HOLDING COMPANY, INC. d/b/a
LIBERTY MUTUAL INSURANCE COMPANY AND/OR LIBERTY
MUTUAL GROUP'S NOTICE OF REMOVAL**

COMES NOW Liberty Mutual Holding Company, Inc. d/b/a Liberty Mutual Insurance Company (“LMHC”) and/or Liberty Mutual Group (“LMG”), and files their Notice of Removal pursuant to Fed. R. Civ. P. 81(c) and 28 U.S.C. §§ 1441 and 1446(a) and (b).

1.

The Plaintiff filed a civil action against LMHC and LMC in the Superior Court of Gwinnett County, Georgia, Civil Action File No. 23-A-05700-1, (the “underlying action”) which is located within the Atlanta Division of the United States District Court for the Northern District of Georgia. See 28 U.S.C. § 90(a)(2).

2.

The Plaintiff filed his Complaint in the underlying action on or about July 3, 2023. (Exhibit “A”, Complaint.) The Summons and Complaint was served on Liberty Mutual on or about July 10, 2023. (Id.)

3.

In their Complaint, Plaintiff alleges that “[a]t all times relevant, Mr. Trivedi has been a resident of the State of Georgia.” (Ex. A, Complaint, ¶ 1.) Plaintiff further alleges that his cause of action arises from an underlying grievance against him with the State Bar of Georgia for the unauthorized practice of law. (Id. at ¶ 8.) The Plaintiff is a citizen of the State of Georgia.

4.

Liberty Mutual Holding Company, Inc. is a holding company that is not registered to do business in Georgia. Liberty Mutual Insurance Company is an insurance company organized is an insurance company organized and existing under the laws of the State of Massachusetts, with its principal place of business located at 175 Berkeley Street, Boston, Massachusetts. Liberty Mutual Group, Inc. is an insurance company organized and existing under the laws of the State of Massachusetts, with its principal place of business located at 175 Berkeley Street,

Boston, Massachusetts. There is no evidence that either Plaintiff is a citizen of either Massachusetts.

5.

Therefore, at the time of removal, the Complaint asserts claims by one citizen of the State of Georgia against only non-citizen Defendants, and there is complete diversity of citizenship.

5.

In the Complaint, Plaintiff alleges that he is entitled to recover from Defendant \$21,450 for attorney's fees and bad faith in the amount of \$150,000. (Complaint, ¶¶ 21 and 24.) Based on the foregoing, the Plaintiff seeks recovery in an amount which exceeds \$75,000.00, exclusive of interest and costs.

6.

This is a civil action of which this Court has original jurisdiction under the provisions of 28 U.S.C. § 1332 based on complete diversity of citizenship among the parties, where the amount in controversy exceeds \$75,000.00, exclusive of interest and costs, and which may be removed to this Court pursuant to 28 U.S.C. § 1441.

7.

The Plaintiff filed the Complaint in the underlying action on July 3, 2023. The

Plaintiff served the Defendant July 10, 2023.

8.

This Notice of Removal is filed within thirty (30) days of the date of service of the Complaint on Defendants.

9.

Defendant attaches as Exhibit "A" to this original pleading only, the entire record in the Superior Court of Gwinnett County, Georgia action.

10.

The undersigned has read this Notice of Removal, and to the best of the undersigned's knowledge, information and belief, formed after reasonable inquiry, it is well-grounded in fact and is warranted by existing law, and it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

WHEREFORE, Defendants hereby removes this action to the United States District Court for the Northern District of Georgia, Atlanta Division.

Respectfully submitted this 9th day of August 2023.

ISENBERG & HEWITT, P.C.

/s/ Hilary W. Hunter
Hilary W. Hunter
Georgia Bar No. 742696

600 Embassy Row, Suite 150
Atlanta, Georgia 30328
(770) 351-4400 Telephone
(770) 828-0100 Facsimile
Attorney for Defendants

EXHIBIT A

Civil Action No. 23-A-05700-1Date Filed July 03, 2023 Magistrate Court Superior Court State Court

Georgia, Gwinnett County

Ankur P. Trivedi

Attorney's Address

Jay F. Trivedi, Esq.
GRIMKE
 1960 Satellite Blvd., Ste. 2000
 Duluth, GA 30097

Name and Address of party to be served.

Liberty Mutual Auto Corp. Serv. Co.
2 SunCourt, Ste. 400
Duluth, Georgia, GA 30097

Plaintiff

VS.

Liberty Mutual Holding Co., Inc.

Defendant

Garnishee

Sheriff's Entry Of Service

Personal

I have this day served the defendant _____ personally with a copy of the within action and summons.

Notorious

I have this day served the defendant _____ by leaving a copy of the action and summons at his most notorious place of abode in this County.

Corporation

Delivered same into hands of _____ described as follows age, about _____ years; weight, about _____ pounds; height, about _____ feet and _____ inches; domiciled at the residence of defendant.

Tack & Mail

Served the defendant Liberty Mutual a corporation by leaving a copy of the within action and summons with A. H. Smith in charge of the office and place of doing business of said Corporation in this County.

Non Est

Diligent search made and defendant _____ not to be found in the jurisdiction of this Court.

This 10 day of July, 2023

J. Williams
Deputy

Sheriff Docket _____ Page _____

Gwinnett County, Georgia

IN THE SUPERIOR COURT OF GWINNETT COUNTY

STATE OF GEORGIA

ANKUR P. TRIVEDI

CIVIL ACTION 23-A-05700-1

NUMBER: _____

PLAINTIFF

VS.

LIBERTY MUTUAL HOLDING COMPANY, INC.

c/o CSC, 2 Sun Court, Ste. 400

Peachtree Corners, GA 30092

DEFENDANT

SUMMONS

TO THE ABOVE NAMED DEFENDANT:

You are hereby summoned and required to file with the Clerk of said court and serve upon the Plaintiff's attorney, whose name and address is:

**Jay F. Eidex, Esq.
Groth, Makarenko, Kaiser & Eidex, LLC
1960 Satellite Blvd., Ste. 2000
Duluth, GA 30097**

an answer to the complaint which is herewith served upon you, within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.
3rd day of July, 2023

This _____ day of _____, 20____.

Tiana P. Garner
Clerk of Superior Court

By _____
Deputy Clerk

INSTRUCTIONS: Attach addendum sheet for additional parties if needed, make notation on this sheet if addendum sheet is used.

IN THE SUPERIOR COURT OF GWINNETT COUNTY
STATE OF GEORGIA

ANKUR P. TRIVEDI,

Plaintiff

Vs.

LIBERTY MUTUAL HOLDING
COMPANY, INC. d/b/a LIBERTY MUTUAL
INSURANCE COMPANY and/or LIBERTY
MUTUAL GROUP,

Defendant

CIVIL ACTION FILE NO.

23-A-05700-1

COMPLAINT FOR DAMAGES

COMES NOW, Ankur P. Trivedi (“Plaintiff” or “Mr. Trivedi”), by and through the undersigned attorney, and files his first-party Complaint against Liberty Mutual Holding Company, Inc. doing business as Liberty Mutual Insurance Company and/or Liberty Mutual Insurance Group (collectively, “Defendant” or “Liberty Mutual”) for breach of contract and bad-faith handling of a claim showing the Court as follows:

I. **PARTIES, JURISDICTION, AND VENUE**

1.

At all times relevant, Mr. Trivedi has been a resident of the State of Georgia.

2.

Liberty Mutual Holding Company, Inc. (“LMHC”) is a foreign corporation with its principal place of business at 175 Berkeley Street, Boston, Massachusetts 02116. Liberty Mutual regularly conducts business in Georgia in the sale of automobile and homeowners’ insurance policies.

3.

Liberty Mutual Holding Company, Inc. operates in Georgia under the trade names Liberty Mutual Insurance Company (“LMIC”) and/or Liberty Mutual Group (“LMG”). Liberty Mutual may be served in Georgia through its registered agent: Corporation Service Company, 2 Sun Court, Suite 400, Peachtree Corners, GA 30092.

4.

Jurisdiction is proper in Gwinnett County.

5.

Venue is proper in Gwinnett County.

6.

Venue is improper in the Northern District of Georgia. See, Mallory v. Norfolk Southern R. Co., WL 4187749 (Sup. Ct., 6/27/2023); O.C.G.A. § 14-2-1501, § 14-2-510.

II. BACKGROUND FACTS

7.

Mr. Trivedi was a named insured under a Liberty Mutual homeowners’ policy¹ for his residence at 1725 Arbor Gate Dr., Lawrenceville, GA 30044².

8.

¹ Policy Number: H65-258-257166-70 2 2.

² The 1725 Arbor Gate property has since been sold, and the homeowners’ policy has been cancelled.

On October 31, 2021, C. Napoleon Barnwell (“Barnwell” or “underlying plaintiff”) filed suit against Mr. Trivedi alleging defamation for filing a grievance against him (Barnwell) with the State Bar of Georgia for the unauthorized practice of law³.

9.

Promptly after being served with the summons and complaint, and pursuant to his insuring agreement, Mr. Trivedi notified Liberty Mutual of a lawsuit.

10.

On or about December 06, 2021, Mr. Trivedi received a telephone call from Tanya Van Hove, a Sr. Casualty Claims Resolution Specialist, to discuss the claim and request relevant documents.

11.

On December 06, 2021, Mr. Trivedi emailed Tanya Van Hove a copy of the Summons, Complaint, and other documents served on him by Barnwell.

12.

On December 09, 2021, Mr. Trivedi received an email from Tanya Van Hove indicating that Liberty Mutual was conducting a coverage investigation.

13.

On December 21, 2021, Mr. Trivedi received an email from Tanya Van Hove indicating that Liberty Mutual was still conducting a coverage investigation.

³ C. Napoleon Barnwell v. Ankur Pankaj Trivedi, Superior Court of Gwinnett County, CAFN: 21-A-08521-1.
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14.

Liberty Mutual did not offer to provide a defense under a reservation of rights, did not move for declaratory relief, and did not otherwise contact Mr. Trivedi regarding his claim.

III. BREACH OF CONTRACT AND BAD-FAITH

15.

Plaintiff incorporates the above paragraphs as if fully restated herein.

16.

Mr. Trivedi paid premiums to Liberty Mutual for his homeowners' policy.

17.

Mr. Trivedi was owed certain duties under his insuring agreement with Liberty Mutual.

18.

Liberty Mutual was required to provide Mr. Trivedi a defense under the terms of the insuring agreement.

19.

Liberty Mutual's failure to provide a defense is a breach of the insuring agreement.

20.

Liberty Mutual's breach of contract resulted in damages, to wit: attorney's fees in retaining private counsel to defend Mr. Trivedi in the underlying action.

21.

Liberty Mutual is liable to Mr. Trivedi for attorney's fees incurred in the underlying action in the amount of \$21,450.00.

22.

Liberty Mutual's failure to take any action concerning Mr. Trivedi's claim amounts to a bad-faith handling of a claim. O.C.G.A. § 33-4-6.

23.

Under O.C.G.A. § 33-4-6, "...the insurer shall be liable to pay such holder, **in addition to the loss**, not more than **50 percent of the liability of the insurer for the loss**...and all reasonable attorney's fees for the prosecution of the action against the insurer."

24.

Liberty Mutual is liable to Mr. Trivedi for damages under O.C.G.A. § 33-4-6 resulting from its bad-faith handling of a claim, in the amount of \$150,000.

25.

Liberty Mutual is liable to Mr. Trivedi for attorney's fees in the prosecution of this action against his insurer under O.C.G.A. § 33-4-6.

IV. STUBBORN LITIGATION AND ATTORNEY'S FEES

26.

Plaintiff incorporates the above paragraphs as if fully restated herein.

27.

Prior to filing this action, Plaintiff issued a 30-day, time-limited demand to Liberty Mutual.

28.

The demand was received by Liberty Mutual by USPS Certified Mail on May 02, 2023.

29.

Liberty Mutual did not respond to Plaintiff's pre-suit demand.

30.

Liberty Mutual's failure to take any action at any stage of this process has forced Plaintiff to prosecute the instant lawsuit.

31.

Liberty Mutual's failure to settle this claim has forced Mr. Trivedi to incur additional attorney's fees and costs.

32.

Liberty Mutual is liable to Mr. Trivedi for attorney's fees and costs in the prosecution of this action, under each O.C.G.A. § 33-4-6 and § 13-6-11, in addition to fees awarded under any other applicable code section.

33.

Plaintiff has served with the Summons and Complaint, Plaintiff's First Interrogatories, Request for Production of Documents, and Request for Admissions, and Plaintiff's Rule 30(b)(6) Notice of Videotaped Deposition of Corporate Representative.

WHEREFORE, Mr. Trivedi respectfully requests that,

- (i) Summons be issued to the named Defendant;
- (ii) This matter be heard before a jury of twelve;
- (iii) This Court enter judgment against Defendant and in favor of Plaintiff; and
- (iv) Grant such other and further relief as may be deemed just and proper.

Respectfully submitted, this 3rd day of June, 2023.



Jay F. Eidex
GA Bar No. 242397
Attorney for Plaintiff

GROTH, MAKARENKO, KAISER & EIDEX
One Sugarloaf Centre
1960 Satellite Blvd.
Suite 2000
Duluth, GA 30097
(770) 904-3590
je@gmke.law

LOCAL RULE 7.1 CERTIFICATE

The undersigned counsel hereby certifies that this pleading was prepared with one of the font and point selections approved by the Court in L.R. 5.1.C. Specifically, Times New Roman was used in 14 point.

/s/ Hilary W. Hunter
Hilary W. Hunter
Georgia Bar No. 742696
Isenberg & Hewitt, P.C.
600 Embassy Row, Suite 150
Atlanta, Georgia 30328
770-351-4400 - T
Attorney for Defendants

**IN THE UNITED STATES DISTRICT COURT
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ANKUR P. TRIVEDI,)	
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LIBERTY MUTUAL HOLDING)	
COMPANY, INC. d/b/a LIBERTY)	
MUTUAL INSURANCE COMPANY)	
and/or LIBERTY MUTUAL GROUP)	

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on August 9, 2023, she electronically filed a copy of Defendant Liberty Mutual Holding Company, Inc. d/b/a Liberty Mutual Insurance Company and/or Liberty Mutual Group's Notice Of Removal with the United States District Court's Clerk of Court using the CM/ECF system, which will automatically send e-mail notification of such filing to the following attorneys:

Jay F. Eidex
Growth, Makarenko, Kaiser & Eidex
je@gmke.law

ISENBERG & HEWITT, P.C.

/s/ Hilary W. Hunter
Hilary W. Hunter
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Attorney for Defendants